

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR (1) A GENERAL)	
ADJUSTMENT OF ITS RATES FOR ELECTRIC)	CASE NO.
SERVICE; (2) AN ORDER APPROVING ITS 2017)	2017-00179
ENVIRONMENTAL COMPLIANCE PLAN; (3) AN)	
ORDER APPROVING ITS TARIFFS AND RIDERS;)	
(4) AN ORDER APPROVING ACCOUNTING)	
PRACTICES TO ESTABLISH REGULATORY)	
ASSETS AND LIABILITIES; AND (5) AN ORDER)	
GRANTING ALL OTHER REQUIRED APPROVALS)	
AND RELIEF)	

ORDER

This matter arises upon the motion of the Kentucky League of Cities (“KLC”) filed July 12, 2017, for full intervention. As a basis for its motion to intervene, KLC states that it represents the interests of municipalities receiving service from Kentucky Power Company (“Kentucky Power”), which are diverse in terms of size, population, infrastructure, and location within the Commonwealth. KLC represents the customers paying the majority of revenue generated under Kentucky Power’s lighting tariffs, and KLC states that Kentucky Power’s proposed changes to the lighting class rate design will have a great impact upon KLC’s members’ costs and policy decisions. KLC further states that the currently proposed revenue allocation does little to address the disparity of the rate of return between classes, and the full extent of these impacts cannot be determined without the opportunity to participate fully in this case. KLC believes the interests of its member cities cannot adequately be represented by any

other party to this proceeding, and that its participation in the proceeding is likely to present issues and develop facts that will assist the Commission in fully considering the matter.

At a July 24, 2017 hearing held to assist the Commission in reaching a decision on pending motions to intervene, the Commission received testimony from KLC's Chief Member Services Officer, Robin Cooper, in support of KLC's request to intervene. Mr. Cooper testified that the proposed increases to Kentucky Power's lighting tariffs would have a substantial effect on KLC's member cities and that many of the KLC members individually lack the resources or knowledge to represent their special interest in this matter.

At the July 24, 2017 hearing, counsel for KLC stated that the KLC Board of Directors had voted to approve intervention into this proceeding. In a subsequent filing, counsel for KLC informed the Commission that his statement was incorrect and that the KLC Board of Directors, on December 16, 2016, passed a broad motion authorizing intervention into rate cases.¹ Counsel for KLC further stated that only after KLC is granted intervention does the KLC Board of Directors consider approving the expenditure of funds for a specific case.² Counsel stated that if the Commission granted KLC's motion to intervene, the KLC Board of Directors would likely consider the financial impact at the next board meeting.³

¹ KLC's Supplement to Motion to Intervene (filed July 28, 2017) at 1-2.

² *Id.* at 1.

³ *Id.* at 2.

Based on the motion to intervene and hearing testimony, and being otherwise sufficiently advised, the Commission finds that the only person who has a statutory right to intervene in a Commission case is the Attorney General, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission.⁴ The Court of Appeals has held that the Commission's discretion to grant or deny a motion for intervention is not unlimited, and has enumerated the limits on the Commission's discretion, with one arising under statute, the other under regulation.⁵ The statutory limitation, KRS 278.040(2), requires that "the person seeking intervention must have an interest in the 'rates' or 'service' of a utility, since those are the only two subjects under the jurisdiction of the PSC."⁶

The regulatory limitation is set forth in 807 KAR 5:001, Section 4(11)(a), which requires a person to demonstrate either (1) a special interest in the proceeding which is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

In analyzing the pending motion to intervene, we find that KLC is likely to present issues and develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings. However, once intervention is granted, we expect KLC to participate meaningfully in this proceeding and assist the Commission in developing the record whether through discovery, settlement

⁴ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

⁵ *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

⁶ *Id.* at 3.

discussions, or the presentation of witnesses and cross-examination of witnesses. KLC's failure to approve funding for participation in this proceeding and to participate meaningfully in this proceeding could impact the Commission's decision on motions to intervene filed by KLC in any future proceedings. The Commission being otherwise sufficiently advised, finds that the motion should be granted.

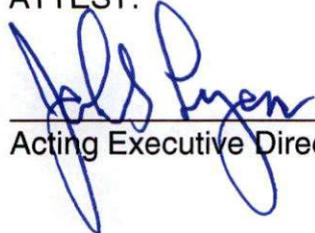
IT IS HEREBY ORDERED that:

1. The motion of KLC to intervene is granted.
2. KLC shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. KLC shall comply with all provisions of the Commission's regulation, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.
4. KLC shall adhere to the procedural schedule set forth in the Commission's July 17, 2017 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, KLC shall file a written statement, with a copy to parties of record, that:
 - a. Affirms that it, or its agent, possesses the facilities to receive electronic transmissions;
 - b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

By the Commission

ENTERED
AUG 03 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Acting Executive Director

Case No. 2017-00179

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